**COMMONWEALTH OF MASSACHUSETTS**
**BEFORE THE**
**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

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| Application of Western Massachusetts Electric Company for Approval of the 2001 Amendatory Agreement Arrangement with Vermont Yankee Nuclear Power Corporation. | ) | D.T.E. 01-99 |

## INITIAL BRIEF OF WESTERN MASSACHUSETTS ELECTRIC COMPANY

## I. INTRODUCTION

On November 19, 2001, Western Massachusetts Electric Company ("WMECO" or the "Company") petitioned the Department of Telecommunications and Energy ("Department") to approve a change to WMECO's long-term power contract with Vermont Yankee Nuclear Power Corporation ("Vermont Yankee").[1] The changed contract is called the '2001 Amendatory Agreement.'

At present, WMECO has a Federal Energy Regulatory Commission-approved long-term power contract ("Power Contract") that requires WMECO to accept 2.5 percent (WMECO's Entitlement Percentage) of the energy and capacity generated by the nuclear electric generating station in Vernon, Vermont (the "Station"), and requires WMECO to bear 2.5 percent of the cost to operate and decommission the Station. Exh. WM-1, p. 3.

[1] The common stock of Vermont Yankee is owned by its "Sponsor" utilities, including WMECO, in addition to certain Vermont utility company 'shareholders.'

Substantially all of Vermont Yankee's assets are now proposed to be sold for $180 million, including those constituting or used in the operation of the Station, to Entergy Nuclear Vermont, LLC ("ENVY"), a Delaware limited-liability company as buyer, and Entergy Corporation ("Entergy"), a Delaware corporation, as guarantor, under a Purchase and Sale Agreement ("PSA") dated August 15, 2001. In connection with that sale, Vermont Yankee will enter into a Power Purchase Agreement ("PPA") under which Vermont Yankee will purchase 100 percent of the Station's existing capacity and associated energy through the term of the Station's current Nuclear Regulatory Commission operating license (March 21, 2012). The PPA is an integral part of the sale of the Station. Exh. WM-1, p. 13.

The 2001 Amendatory Agreement parallels the PPA in that it requires WMECO to take 2.5 percent of the capacity and associated energy purchased by Vermont Yankee through the term of the Station's current operating license. Under the 2001 Amendatory Agreement, Vermont Yankee's Sponsors and shareholders will not bear the risk that the costs of operating and decommissioning the Station may increase or that its output may decline. Under the Power Contract, Vermont Yankee's Sponsors and shareholders do bear those risks. Exh. WM-1, pp. 8, 11.

In this proceeding, WMECO requests approval of the 2001 Amendatory Agreement pursuant to G.L. c. 164, §§ 1A, 1G, 76, 94 and 94A.

## II. PROCEDURAL HISTORY

Pursuant to the Department's order noticing this proceeding, three parties, the Office of the Attorney General ("Attorney General"), Division of

Energy Resources and Cambridge Electric Light Company, requested and were granted full intervenor status.

On January 10, 2002, the Department held a public hearing and procedural conference in this matter. No one from the public attended or made a statement at this hearing. After a discovery period, an evidentiary hearing was held in this proceeding on February 27, 2002. Testifying for WMECO was Richard A. Soderman, Directory of Regulatory Policy and Planning for Northeast Utilities Service Company and its operating companies, including WMECO. No other party presented testimony in this matter.

At the close of hearings, a number of exhibits were entered into the record. Entered were WMECO's Exhibit WM-1, the prefiled testimony of Mr. Soderman, along with attached schedules (Exhs. RAS-1 and RAS-2) and accompanying documents. In addition, WMECO's responses to the Attorney General's and the Department's data requests were received in the record. Received were WMECO responses to the following data requests (including supplements and revisions): AG-1-1 through 33, DTE-1-1 through 20, and DTE-2-1 through 5. Further, pursuant to Department practice, responses and supplements to seven record requests propounded by the Attorney General at the February 27 evidentiary hearing are also part of the record.

Finally, WMECO submitted a supplemental answer to AG-RR-7 on March 7, 2002 and a response to the Attorney General's Supplemental Record Request on March 19, 2002. The supplement to AG-RR-7 and the Supplemental Record Response of March 19 both include a Memorandum of Understanding entered into among ENVY, Vermont Yankee, Vermont Department of Public Service and other

Vermont parties ("MOU") and filed with the Vermont Public Service Board (in Docket No. 6545) on March 6, 2002.

## III. WMECO's 2001 AMENDATORY AGREEMENT IS FULLY CONSISTENT WITH THE MASSACHUSETTS ELECTRICITY UTILITY RESTRUCTURING ACT AND THE STANDARDS SET BY THE DEPARTMENT, AND THE TERMS OF THE AGREEMENT SHOULD BE APPROVED.

### A. The Underlying Sale Of The Station Is Consistent With Department Standards.

In this proceeding, WMECO requests approval of the terms of the 2001 Amendatory Agreement and not the sale of the Station.[2] However, the terms of the 2001 Amendatory Agreement are related to the sale of the Station. WMECO, therefore, sets forth the standard employed by the Department for the sale of generating assets and shows that the sale of the Station was entirely consistent with the Department's standards.

The Massachusetts Electric Utility Restructuring Act (Chapter 164 of the Acts of 1997, codified, in pertinent part, in G.L. c. 164) ("Restructuring Act") directed electric utility companies, such as WMECO, to mitigate transition costs through the divestiture of generating assets by electric utility companies, such as WMECO. (G.L. c. 164, section 1A(b)(2)).[3] The sale of the Station was conducted in a manner that meets the Department's specific standard of review for sales of nuclear generating units. *See, Boston Edison Company and Commonwealth Electric Company*, D.T.E. 98-110/D.T.E. 98-126, p. 5 (March 22, 1999) ("Boston Edison").

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[2] The sale of the Station is subject to the Federal Energy Regulatory Commission's exclusive jurisdiction. Exh. WM-1, p. 6.

In the Boston Edison matter, the Department stated that the sale of generating assets must be "equitable and maximize the value of the existing generation facilities being sold." *Boston Edison*, p. 5. In turn, a sale process is deemed equitable and structured to maximize the value of the existing generation facilities being sold if the company establishes that it used a "competitive auction or sale" that ensured "complete, uninhibited, non-discriminatory access to all data and information by any and all interested parties seeking to participate in such auction or sale. *Id.* This language parallels the statutory language for the divestiture of non-nuclear generating assets. *See*, G.L. § 1A(b)(2).

In the sale of the Station, Vermont Yankee obtained the services of J.P. Morgan Securities, Inc. ("JP Morgan") as auction agent. Exh. WM-1, p. 5. JP Morgan used a four phase auction process: (1) a planning stage to assess objectives; (2) a marketing phase in order to elicit as much interest as possible; (3) a due diligence phase in which eligible bidders were provided with information; and (4) a bid evaluation phase which proceeded to negotiations. Exh. WM-1, p. 5. The documentation in this proceeding demonstrates how thoroughly JP Morgan sought out potential bidders, provided all serious parties an opportunity to review all data relating to the Station, thoroughly evaluated the bids (along with the representatives of Vermont Yankee) and arrived at the selection of the winning bidder. *See, e.g.,* Exhs. AG-IR-1-12, Attachment 1 (Confidential); AG-IR-20(g), Attachment; AG-IR-1-26, Attachment 8 (Confidential).

There can be no doubt that, through JP Morgan and its own efforts, Vermont Yankee used a competitive auction that ensured complete, uninhibited,

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3 Although the sale of nuclear generating assets was not required by the Restructuring

non-discriminatory access to all data and information by any and all interested parties seeking to participate. Exh. WM-1, p. 6. The record in this proceeding establishes conclusively that the sale of the Station was fair and meets the Department's standards.

### B. The 2001 Amendatory Agreement Meets The Department's Standard For Renegotiated Power Purchase Agreements.

The negotiation of power purchase contracts by utilities, like divestiture of other generation resources, is called for by the Restructuring Act. The Restructuring Act provides that "[r]atepayers and the commonwealth will be best served by moving from…the framework…in which retail electricity service is provided principally by public utility corporations…to …a framework under which competitive producers will supply electric power and customers will gain the right to choose their electric power supplier" (Restructuring Act, Section 1(c)). The Act also states that "[t]he interests of consumers can best be served by an expedient and orderly transition [to] the functional separation of generation services from transmission and distribution service" (Restructuring Act, Section 1(m)).

General Laws, chapter 164, § 1G(d)(2)(i), (ii) (inserted by Section 193 of the Restructuring Act), provides a detailed process mandating utility efforts to renegotiate their power purchase contracts. Further, a utility's failure to pursue renegotiation efforts mandated by the Restructuring Act results in a reduction to a utility's transition cost recovery.

In the context of urging a utility to renegotiate its power purchase contracts, the Act provides that the Department need only determine that the

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Act, the sale of such assets is consistent with its goals. *See,* Restructuring Act, Section 1(m).

renegotiated contract is "**likely** to achieve savings to the ratepayers and is otherwise in the public interest" (G.L. c. 164, § 1G(d)(2)(ii) (emphasis supplied)). *See, L'Energia,* D.T.E. 99-16 (1999). Likely means "of such a nature or circumstance as to make something probable" (Webster's Ninth New Collegiate Dictionary, 1985 Ed.). Within the confines of the Restructuring Act's new standard, the Department has generally continued to look at the reasonableness of the renegotiated deal. The Department's level of inquiry into a renegotiated contract "is similar to that of a settlement agreement." *Western Massachusetts Electric Company*, D.T.E. 99-56, p. 7 (1999), *citing Plymouth Rock Energy Associates, L.P.*, D.T.E. 92-122-B (1999).

In establishing 'likely' as the standard, rather than such possible higher standards as 'highly likely' or 'certain', the Legislature undoubtedly understood that renegotiated contracts are predicated on a number of assumptions about future events that may or may not come to pass. All that is required to approve a renegotiated contract, and, therefore, advance the Act's intent that a utility mitigate its power purchase contracts, is a determination by the Department that the renegotiated contract is more likely than not to achieve savings to customers. As shown below, the 2001 Amendatory Agreement handily meets the Department's standard for a renegotiated contract and should be approved.

## IV. THE EVIDENCE IN THIS PROCEEDING DEMONSTRATES OVERWHELMINGLY THAT WMECO'S CUSTOMERS WILL BENEFIT FROM THE 2001 AMENDATORY AGREEMENT

### A. The Record Shows That Significant Benefits Will Flow To WMECO Customers And No Party Has Disputed These Benefits.

WMECO's witness has testified to the important benefits that will accrue to

WMECO's customers under the 2001 Amendatory Agreement. These benefits are:

(1) The sale price of $180 million for the Station, which is reflected in the 2001 Amendatory Agreement. This price is several times higher that the cash price offered prior to the auction and will be credited to Sponsors and shareholders according to their ownership shares. Exh. WM-1, p. 11.

(2) The 2001 Amendatory Agreement will eliminate WMECO's responsibility to pay for cost of service at the Station. Instead, WMECO, through Vermont Yankee, will only pay a fixed price for electricity actually delivered. Importantly, unlike the requirements of the current Power Contract, WMECO will not bear the risk that the costs of the Station may increase or that the output of the Station may decline. Exh. WM-1, p. 8. Tr. pp. 89, 101.

(3) Under the 2001 Amendatory Agreement, WMECO will not be responsible for a "top-off" decommissioning payment. The elimination of a "top-off" payment is a significant benefit. Vermont's Yankee's latest site specific decommissioning cost estimate is $564 million in 2001 dollars but ENVY has agreed to accept the current decommissioning fund of approximately $268.6 million, thus providing an immediate benefit to WMECO's customers by

eliminating the decommissioning trust contribution going forward. Exh. WM-1, p. 12.

Under a certain set of circumstances, Vermont Yankee may be required to make an additional deposit to the decommissioning funds, but this is capped at $5.4 million. As a holder of a 2.5 percent share in Vermont Yankee, WMECO's capped maximum responsibility would be $135,000. Tr., p. 61.

(4) ENVY assumes full responsibility for payments to the Texas Low Level Waste Compact, for low level radioactive waste from the Station. These payments are significant. Exh. WM-1, p. 12. ENVY will also assume liabilities related to spent nuclear fuel (with the exception of liability to the Department of Energy for payment of a one-time fee associated with pre-1983 spent fuel). Exh. WM-1, p. 7.

(5) A Low Market Adjustment mechanism ("LMA") reduces WMECO's customers' risk should energy market prices fall. The LMA applies to the output that Sponsors and shareholders are responsible for under the PPA between ENVY and Vermont Yankee. Beginning in November 2005, the LMA adjusts the PPA price down to 105 percent of the NEPOOL Market Price when the Market Price in NEPOOL is less than 95 percent of the PPA price. As indicated above, this adjustment mechanism services to protect WMECO and its customers should market prices fall. Exh. WM-1, p. 9. Tr., pp. 77-83.

(6) Vermont Yankee will not be required to borrow money under the proposed transaction and will be able to use part of the proceeds of the sale to pay off existing debt. Exh. WM-1, p. 12.

(7) The 2001 Amendatory Agreement is consistent with WMECO's restructuring plan, which calls for WMECO to exit the generation business and mitigate, to the maximum extent possible, its transition costs. Exh. WM-1, p. 11. Tr. pp. 99-100.

### B. The 2001 Amendatory Agreement Results In A 78 Percent Reduction In Customers' Transition Costs Related To The Station.

There are many benefits associated with the 2001 Amendatory Agreement that the Company does not attempt to quantify. Tr. pp. 101-102. For example, the reduction in risk because the 2001 Amendatory Agreement incorporates a fixed price schedule for the output of the Station rather than cost of service responsibility is significant. However, looking only at the benefits that are quantified demonstrates that transition costs currently estimated at $9.273 million would be reduced to $2.049 million through the end of the license period (2012), using a reasonable forecast of energy prices. Exh. WM-1, Exhs. RAS-1 and RAS-2; Tr. pp. 77, 99. This means that the 2001 Amendatory Agreement reduces customers' transition costs by 78 percent. This is a very handsome benefit for WMECO's customers and one that the Department should embrace enthusiastically.

Mr. Soderman, WMECO's witness, testified that the same absolute dollar benefit flows to WMECO's customers regardless of the energy price forecast. Tr.

p. 75. However, given the energy price forecast used, this absolute benefit may range from 75 percent to 85 percent of total transition costs. Tr. p. 77. And, even using the higher discount rate suggested by the Attorney General, the saving to customers is $5.738 million, a significant portion of the $9.273 million transition cost. Exh. AG-RR-2.[4]

### C. The Memorandum Of Understanding Further Improves The Transaction From A Customer Perspective.

On March 6, 2002, the MOU was submitted to the Vermont Public Service Board in Docket No. 6545 (AG-RR-7, Supp. 1; AG Supplemental Record Request).[5] This MOU improves the 2001 Amendatory Agreement from WMECO's customers' perspective (but does not require any change to the 2001 Amendatory Agreement). The MOU provides a number of additional concessions by ENVY that will flow to WMECO through the PPA and the 2001 Amendatory Agreement. The MOU lists each of these concessions. The most important of these include the following:

(1) ENVY agrees to share excess funds in the event of a delayed decommissioning. Should decommissioning be delayed beyond March 31, 2012, 50 percent of those funds defined as excess will be transferred to Vermont Yankee for the benefit of electric consumers in proportion to their Sponsor's pro rata ownership share. Exh. AG-RR-7 Supp. 1 (Attachment), pp. 2-3. This provision

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4 Attorney General's rate is not the correct one to calculate savings. The Company's discount rate of 8.11 percent is the appropriate discount rate to use as the rate representing the net return to WMECO and its customers on any rate base items. Exh. AG-RR-2.

5 Both AG-RR-7, Supp. 1 and AG Supplement Record Request contain the MOU. In the interests of simplicity, WMECO will cite to AG-RR-7, Supp. 1.

appears to address the questions relating to decommissioning the Attorney General raised at hearings. Tr. pp. 127-128 (Confidential).

(2) ENVY agrees to provide Vermont Yankee an opportunity to purchase additional energy and capacity from the Station in the event of an 'uprate' (increase in capacity) at the Station or in the event the Station's license is extended beyond March 2012. Exh. AG-RR-7, Supp. 1 (Attachment), pp. 2, 4. Should excess revenue, as defined in the MOU, be realized as a result of license extension, a portion of this will also flow to Vermont Yankee. Exh. AG-RR-7 Supp. 1 (Attachment), p. 4. These provisions appear to address the questions the Attorney General raised at hearings relating to uprate and license extension. Tr. pp. 52-53.

(3) ENVY agrees to provide enhanced financial security. ENVY will obtain an additional $60 million of enhanced financial security, through a guaranty of Entergy Corporation or similar credit arrangement, at the time the Station is removed from commercial operation. Exh. AG-RR-7 Supp. 1 (Attachment), p. 6.

The Vermont Department of Public Service ("VPS") (the consumer advocate in Vermont) is a signatory to the MOU, indicating that office believes the protections of the MOU, along with the other elements of the sale set forth by the proponents in Vermont, warrant approval of the sale of the Station and associated agreements. Exh. AG-RR-7 Supp. 1 (Attachment), p. 7.

In sum, the MOU makes an already good deal for WMECO's customers better.

## V. THE CONFIDENTIALITY OF THE PROTECTED MATERIAL IS OF PARAMOUNT IMPORTANCE AND THE CONFIDENTIALITY SHOULD NOT BE SUBJECT TO A SUNSET PROVISION.

### A. Treatment Of Material

WMECO has requested protective treatment for a number of documents in this proceeding and it is essential for a number of reasons that the Department grant this treatment. While the Company understands and appreciates the need to make public as much material as possible, there are very good reasons for keeping the requested material protected and not imposing a sunset provision on this protected treatment. Neither the Attorney General nor any other party has challenged the confidential nature of these documents or the treatment requested by WMECO.

At the evidentiary hearing, the Department directed the Company to provide additional comments in the Company's brief pertaining to the confidential material. Tr. pp. 11, 143. WMECO will not repeat the arguments and legal authority cited in its four motions for protective treatment and incorporates by reference here each of those motions. WMECO also incorporates here its statement on confidentiality make at hearings. Tr. pp. 8-11.

The confidential material provided in this matter falls generally into three categories. The initial category is commercially sensitive information or processes developed by, for example, JP Morgan and Henwood Energy Services, Inc. ("Henwood"). This material are confidential for several reasons. First, the documents are proprietary work-products of these firms and disclosure will harm these entities financially. That is, disclosure will allow competitors to use material or processes that were developed by JP Morgan and Henwood to the competitors' advantage and to the financial detriment of JP Morgan and Henwood.

Second, and perhaps more importantly, if the commercially sensitive documents are made public, JP Morgan, Henwood and other firms may decide that it is contrary to their financial interest to provide assistance to electric utilities in future matters relating to the sale or mitigation of costs. If that is the case, electric utilities will be deprived of valuable assistance relating to asset sales, potentially resulting in less favorable outcomes and accompanying hardship to customers.

Third, the internal process that JP Morgan uses to gather and evaluate bids may be useful intelligence for other bidders in other asset sales. Bidders will exploit any knowledge in an effort to bid less for the asset being sold. While WMECO does not know precisely what part of the JP Morgan process would or could be of assistance to bidders in other sales (and would not state publicly if it did), the Department would be taking a unnecessary chance with customers' money if it ignored the real possibility of harm in future auctions/solicitations.

As the Department is well aware, there is an ongoing asset sale in which disclosure could harm customers. The Seabrook nuclear generating station ("Seabrook") is now being sold, and JP Morgan is the auction agent. The owners of Seabrook do not want to take any chance that by publicly disclosing the JP Morgan material a bidder or bidders will gain an advantage leading to a lesser sale price for Seabrook. This is not simply a third-party concern for WMECO. WMECO's affiliates in the Northeast Utilities system own the largest single share of Seabrook and even a small diminution in price for the unit would be a significant loss to the Northeast Utilities system's customers.

Accordingly, there is sufficient cause for the Department to protect the material that pertains to the commercially-sensitive material provided by JP Morgan and Henwood. In every other jurisdiction in which it has been submitted, to the best of the Company's knowledge, protective treatment has been allowed.

The second category of information for which protective treatment is requested is bid information and evaluation. It is obvious that the release of the bid information and evaluations from the various parties, if released prior to closing, could endanger the sale of the Station, and thus the 2001 Amendatory Agreement. Armed with the bid information, one or more parties may try to claim preferential treatment or some other stratagem in order to scuttle the sale or achieve a lower price. Such a result would be terribly unfortunate for WMECO's customers.

Even after closing, however, there are important reasons for not making the bid information public. As an initial matter, the contractual arrangements between Vermont Yankee and ENVY last at least 10 years. Disclosure of the bid and bid evaluation information even years into the future could lead to litigation that could inure to customers' detriment. In addition, there will be other asset sales in the future, including the sale of Seabrook. The Department should not allow bid information such as the number of bidders, the kinds of bids made, or the levels of bids to be publicly disclosed. By doing so there is a very real chance that the price for a future auctioned asset may suffer significantly.

The third category of protective material tends to be interspersed with the others and pertains to the security of the Station. We are all well aware that since September 11th, there has been a very much heightened sense of security for nuclear generating units. A great deal of information that may have been publicly available is not now so. Any diagrams, charts, and descriptions of the physical generating station or portions of the generating station should be treated as protected for national security reasons. The rationale for keeping such material confidential continues beyond the sale of the Station, and through its retirement and decommissioning.

WMECO strongly believes that the Department should approve protective treatment for the material for which WMECO has sought confidentiality and not impose a sunset provision on this confidential treatment. Vermont Yankee and JP Morgan have provided confidential to WMECO on the condition that it be treated as confidential. The Vermont Public Service Board has afforded confidential treatment to this material and has not imposed any sunset provision. The Department should proceed in the same manner as its sister agency. Should the Department consider making any of the material provided public, WMECO respectfully requests to be heard further on this issue and requests an opportunity for Vermont Yankee to be heard directly.

### B. List Of Specific Bases For Confidentiality

The Hearing Officer has requested that WMECO identify the type of protected information in each of the documents for which confidentiality is sought. Tr. pp. 11, 143. As a practical matter most documents have more than one type of protected material. For example, a document may have bid material that is being measured against an energy forecast (commercially sensitive material). *See, e.g.,* DTE-IR-1-5. However, in order to comply with the Hearing Officer's request, WMECO has attempted, in the following list, to identify the type of confidential material that tends to be more prevalent in each document.

**<u>Confidential Documents</u>**

Attorney General Info. Request 1-3, Att. 1 - Bid material
Attorney General Info. Request 1-3, Att. 2 - Bid material
Attorney General Info. Request 1-3, Att. 3 - Bid material
Attorney General Info. Request 1-4 (Att.) - Bid material
Attorney General Info. Request 1-11, Att. 1 - Bid/commercially sensitive material
Attorney General Info. Request 1-11, Att. 2 - Bid/commercially sensitive material
Attorney General Info. Request 1-11, Att. 3 - Bid/commercially sensitive material
Attorney General Info. Request 1-11, Att. 4 - Bid/commercially sensitive material
Attorney General Info. Request 1-11, Att. 5 - Bid/commercially sensitive material
Attorney General Info. Request 1-11, Att. 6 - Bid/commercially sensitive material
Attorney General Info. Request 1-11, Supp. 1 - Commercially sensitive material
Attorney General Info. Request 1-12, Att. 1 - Commercially sensitive material
Attorney General Info. Request 1-18(a), Att. 1- Commercially sensitive material
Attorney General Info. Request 1-18(a), Att. 3- Commercially sensitive material
Attorney General Info. Request 1-18(c) (Att.) - Commercially sensitive material
Attorney General Info. Request 1-18(e) (Att.) - Commercially sensitive material
Attorney General Info. Request 1-18(e) (Att.) - Bid/commercially sensitive material
Attorney General Info. Request 1-20(g) (Att.) - Bid/commercially sensitive material
Attorney General Info. Request 1-25 (Att.) - Bid material
Attorney General Info. Request 1-26, Att. 3 - Bid/commercially sensitive material
Attorney General Info. Request 1-26, Att. 8 - Comm. sensitive/security material
Attorney General Info. Request 1-26, Att. 9 - Commercially sensitive

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| Attorney General Info. Request 1-26, Att. 10 | - | Security material |
| Attorney General Info. Request 1-26, Att. 11 | - | Comm. sensitive/security material |
| Attorney General Info. Request 1-26, Att. 27 | - | Bid/security material |
| Attorney General Info. Request 1-26, Att. 28 | - | Bid/security material |
| Attorney General Info. Request 1-26, Att. 29 | - | Bid material |
| Attorney General Info. Request 1-27 (Att.) | - | Bid material |
| Department Info. Request 1-5 | - | Bid/commercially sensitive material |
| Department Info. Request 1-5, Supp. 1 | - | Bid/commercially sensitive material |
| Attorney General Record Request 1 | - | Bid material |
| Attorney General Record Request 3 | - | Commercially sensitive material |
| Attorney General Record Request 6 | - | Bid material |

## VI. CONCLUSION

WMECO has demonstrated that the terms of the 2001 Amendatory Agreement are likely to reduce significantly WMECO's transition costs, and that the asset sale that provided the platform for the 2001 Amendatory Agreement was fair and equitable and otherwise conducted according to the Department's standards. There is, in fact, no evidence on this record to support a contrary conclusion.

Accordingly, WMECO respectfully requests the Department:

(a) Find that WMECO's 2001 Amendatory Agreement is consistent with applicable law, including relevant portions of the Restructuring Act and WMECO's approved restructuring plan, is in the public interest, and will result in just and reasonable rates for WMECO's customers.

(b) Find that WMECO's decision to enter into the 2001 Amendatory Agreement is consistent with its obligation to mitigate, to the maximum extent possible, the total amount of transition costs relating to Vermont Yankee pursuant to the Restructuring Act.

(c) Find that the costs associated with the 2001 Amendatory Agreement shall be included in and recovered as part of the transition charge.

Respectfully submitted,

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